

# **Exhibit B**

**AFFIDAVIT  
of  
TCPA PRIOR EXPRESS WRITTEN CONSENT**

I, Mitenkumar Bhadania, hereby certify as follows

1. I am a Computer System Engineer at Fluent, LLC ("Fluent") and am responsible for System Maintenance and Tech Support and together with other members of Fluent's IT team, have designed and developed various modules of Fluent's proprietary ad serving and lead generation system ("System"). In that capacity, I am familiar with the consumer facing websites operated by Fluent and its wholly owned subsidiaries, the System, Fluent's database of System and user information ("Database") and the structure and architecture of the Database. Fluent has filed an application with the U.S. Patent and Trademark office to patent the System.

2. I hold a Bachelor's Degree in Computer Engineering granted by Sardar Patel University in July, 2011. I also hold a Master's Degree in Computer Science granted by Southern Methodist University in May, 2015.

3. Fluent maintains its Database in the ordinary course of its business operations as part of its business records. The Database is maintained on redundant servers located in Ashburn, Virginia under a Hosting Services Agreement with Rackspace US, Inc.

4. When a person accesses one of the consumer facing websites operated by Fluent, the System assigns a unique visitor ID to that user in real time in the Database and then contemporaneously stores several pieces of information about the user including where the user came from before accessing the site, their IP address and their browser user agent. The System then displays a series of webpages based on the information gathered and information supplied by the user and records what was displayed and user inputs/responses in various tables to the Database. All of the pieces of data from a user's visit are relationally associated with the visitor ID enabling me to recreate the user experience and their interaction with the Fluent site.

5. I researched the user experience and information stored in the Database with respect to Richard Daschbach ("User") and provide this Affidavit in connection with a claim by the User alleging, among other things, violation of the Telephone Consumer Protection Act ("TCPA") resulting from telemarketing calls allegedly received by the User from Protect My Car, a Fluent client.

6. The System recorded that the User visited <http://signup.finddreamjobs.com> ("Site"), a website owned and operated by Search Works Media, LLC, a wholly owned Fluent subsidiary on April 12, 2019 starting at 7:42:30 PM EST.

7. Upon landing on the Site, the User provided his/her identifying information and agreed to the Terms and Conditions of the Site by clicking the "Submit" button on the registration page. The System contemporaneously recorded the date and time when the User clicked Continue, which was on April 12, 2019 at 7:46:09 PM EST.

8. Above the “Submit” button, the following sentence is reproduced: “I understand and agree to the Terms which includes mandatory arbitration and Privacy Policy, and agree to receive daily emails from FindDreamJobs.com.” The regenerated HTML representation of the page showing the User’s agreement to the Terms and Conditions appears below.

I understand and agree to the [Terms](#) which includes mandatory arbitration and [Privacy Policy](#), and agree to receive daily emails from FindDreamJobs.com.  
[Skip to Results](#)



9. Below is the mandatory arbitration clause found in the Terms and Conditions hyperlinked in the sentence above the Submit button. The full Terms and Conditions are attached as Exhibit A.

**Mandatory Arbitration.** These Terms & Conditions contain a mandatory arbitration provision, as detailed below, that requires you to arbitrate, individually, all disputes or claims that you may have with us, our parent, related parties, advertiser clients and marketing partners (collectively, “Marketing Partners”) who are third-party beneficiaries of the mandatory arbitration provision. Thus, for example, if you provide prior express written consent to be contacted via telemarketing or SMS/text messaging, any claims that you may have regarding any telemarketing or SMS/text messages that you receive are subject to the mandatory arbitration provision. The mandatory arbitration provision also waives your right to participate in a class action or multi-party arbitration. There are two narrow exceptions to the mandatory arbitration provision: (1) you may opt-out by providing [written notice](#) of your decision to do so within thirty (30) days of the date that you first register on a Site; and (2) you may opt-out by filing a claim in Small Claims Court provided the requirements described below are met.

10. The following is a screenshot from a search of the database that contemporaneously records the date and time stamp of the moment the User clicked Submit on the site.

The screenshot shows a database search interface. At the top, a SQL query is entered in a text box:

```
SELECT Date,
Email,
Phone,
CampaignID
FROM lgV3_Archive_20190617.T_Leads_Archive
WHERE
LeadID=110090353781;
```

Below the query box is a toolbar with various icons for query execution and viewing options. The results are displayed in a table with the following columns and data:

Date	Email	Phone	CampaignID
TIMESTAMP	VARCHAR(100)	VARCHAR(15)	UNSIGNED INT(11)
4/12/2019 7:46:09 PM	rjdnh1936@gmail.com	6037777110	4579

11. In addition to the User's name, the System recorded the user's IP address and the User provided the following information on the Site:

Telephone number: 6037777110  
Mailing address: Exeter, NH 03833  
IP Address: 2601:188:c301:1787:f4ae:c900:ddd2:5e54

12. The regenerated HTML of the TCPA consent form displayed to the User after the User checked the box appears below.

	Month NOV ▾	Day 19 ▾	Year 1936 ▾
---	----------------	-------------	----------------

	Phone 6037777110	
---	---------------------	---

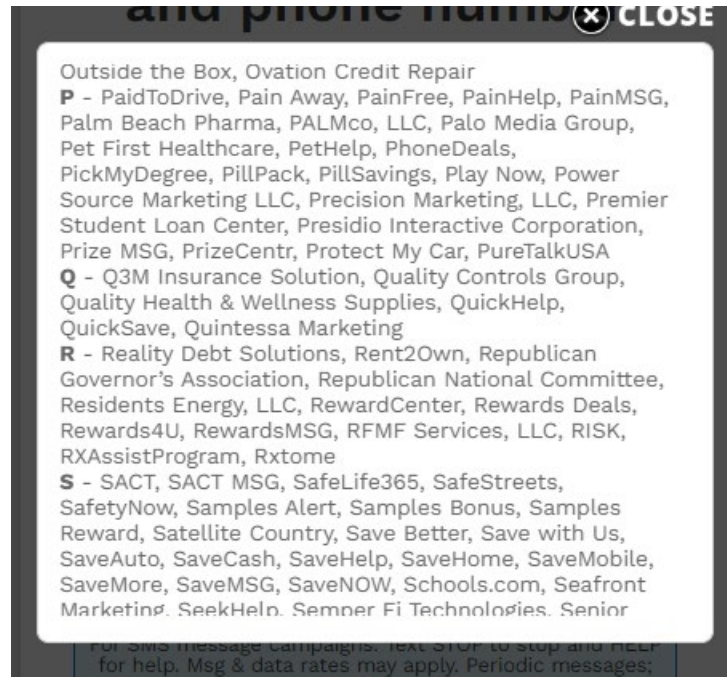
By checking "I AGREE" and clicking "SUBMIT" I understand that I may be called or receive SMS messages (msg and data rates may apply) by our Marketing Partners at the landline or mobile phone number I provided, even if my number is on the federal or a State do not call list. I acknowledge that the call or SMS message may be made using an autodialer and may include prerecorded messages. I understand my consent is not required to perform a job search, or to purchase or use any goods or services offered.

For SMS message campaigns: Text STOP to stop and HELP for help. Msg & data rates may apply. Periodic messages; max. 30/month.

 I AGREE

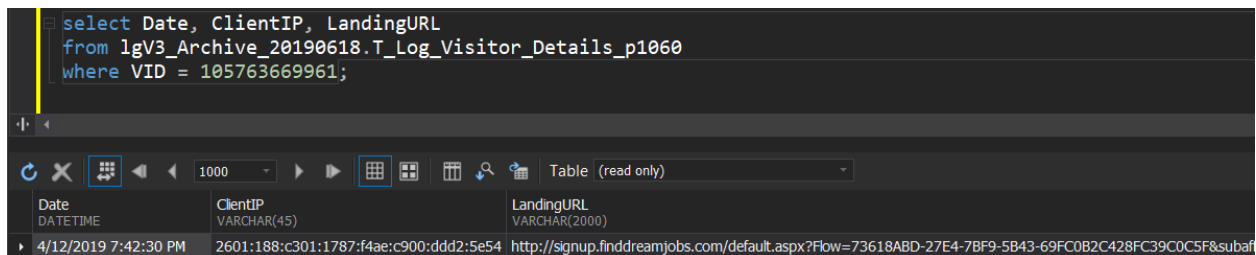
**SUBMIT**

13. The following is the dynamically populated list of then current call center brand names displayed when the Marketing Partners hyperlink in the TCPA consent is clicked – Protect My Car appears under “P”:

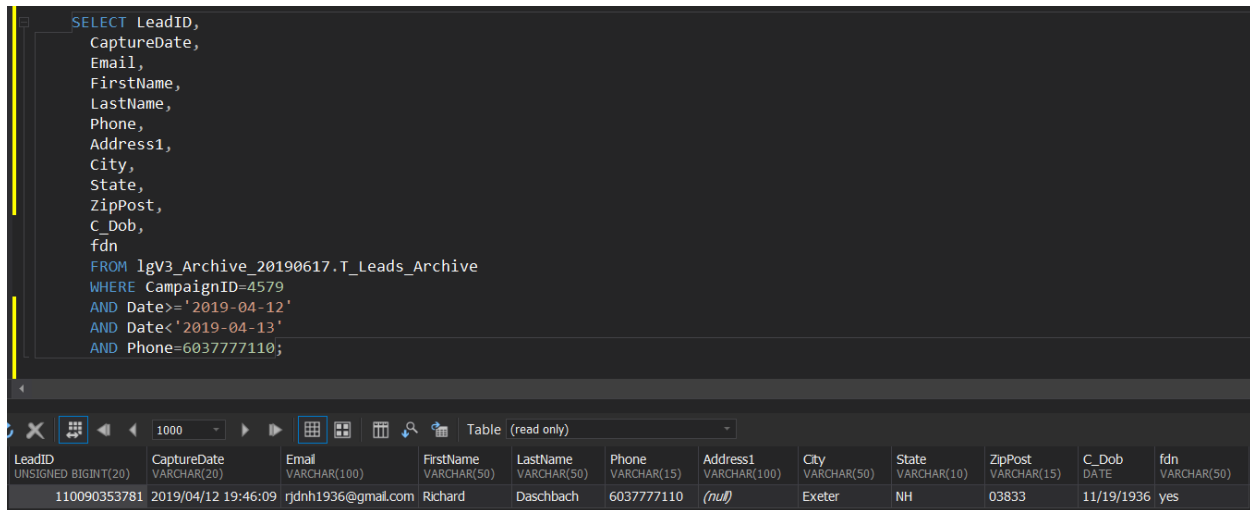


14. The User clicked on the unchecked checkbox in the TCPA consent (which causes the box to be checked) and then clicked on the Submit button thereby providing the User’s prior express written consent, as that term is defined in the regulations promulgated under the TCPA (47 CFR §1200(f)(8)), to be called at the identified phone number by Protect My Car. The System contemporaneously recorded the date and time when the User clicked the Submit button which was April 12, 2019 at 19:46:09 EST, approximately 3 minutes and 39 seconds after arriving at the Site.

15. The following is a screenshot from a search of the database that contemporaneously records the date and time stamp of the moment the User landed on the Site:



16. The following is a screenshot from a search of the database that contemporaneously records the date and time stamp of the moment the User checked the box and clicked Submit on the TCPA consent page:



The screenshot shows a database query interface. The top panel displays a SQL query: `SELECT LeadID, CaptureDate, Email, FirstName, LastName, Phone, Address1, City, State, ZipPost, C_Dob, fdn FROM lgV3_Archive_20190617.T_Leads_Archive WHERE CampaignID=4579 AND Date>='2019-04-12' AND Date<'2019-04-13' AND Phone=6037777110;`. The bottom panel shows the results in a table with 11 columns: LeadID, CaptureDate, Email, FirstName, LastName, Phone, Address1, City, State, ZipPost, C\_Dob, and fdn. The data row shows a lead with ID 110090353781, captured on 2019/04/12 at 19:46:09, with email rjdnh1936@gmail.com, first name Richard, last name Daschbach, phone 6037777110, address (null), city Exeter, state NH, zip 03833, date of birth 11/19/1936, and fdn yes.

LeadID	CaptureDate	Email	FirstName	LastName	Phone	Address1	City	State	ZipPost	C_Dob	fdn
110090353781	2019/04/12 19:46:09	rjdnh1936@gmail.com	Richard	Daschbach	6037777110	(null)	Exeter	NH	03833	11/19/1936	yes

17. The System will not post a lead pertaining to a user to a client such as Protect My Car unless the user checked the checkbox and then clicked the Submit button. The System will not post a lead to a call center client if that user is on the relevant unsubscribe list. If a user does not check the box, but clicks the Submit button, the user will progress to the next page of the Site but the lead will not be posted to any call center clients and the user will not receive any telemarketing calls.

I declare under penalty of perjury that the foregoing is true and correct.

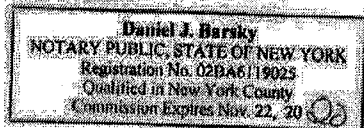


Mitenkumar Bhadania

Sworn before me this <sup>28<sup>th</sup></sup> day  
on August 2020



Notary Public



## Exhibit A

### Search Works Media, LLC Job-Listing Related Sites

#### Terms & Conditions

Last Modified: February 12, 2019

Search Works Media, LLC ("we," "us," and "our") operates websites displaying job listings that we create (each a "Site" or collectively, the "Sites") and provide job and career related content. By accessing and using the Sites, you agree to and accept these Terms & Conditions, as well as our Privacy Policy and any additional terms, conditions and policies published on our Sites (collectively, the "Agreement"). If you do not agree to and accept the terms of the Agreement in their entirety, you do not have permission to visit and/or use any of our Sites.

**Mandatory Arbitration.** These Terms & Conditions contain a mandatory arbitration provision, as detailed below, that requires you to arbitrate, individually, all disputes or claims that you may have with us, our parent, related parties, advertiser clients and marketing partners (collectively, "Marketing Partners") who are third-party beneficiaries of the mandatory arbitration provision. Thus, for example, if you provide prior express written consent to be contacted via telemarketing or SMS/text messaging, any claims that you may have regarding any telemarketing or SMS/text messages that you receive are subject to the mandatory arbitration provision. The mandatory arbitration provision also waives your right to participate in a class action or multi-party arbitration. There are two narrow exceptions to the mandatory arbitration provision: (1) you may opt-out by providing [written notice](#) of your decision to do so within thirty (30) days of the date that you first register on a Site; and (2) you may opt-out by filing a claim in Small Claims Court provided the requirements described below are met.

**How the Sites Work.** We and our search partners comb the Internet for job listings including those related to the parameters our users provide ("Job Listings"). We also provide job and career related content that currently includes information on education, job searches, career advice, interviewing techniques and salaries and benefits. We provide the Job Listings to our users in exchange for our users providing us with certain information about themselves that enables us to identify products and services that may interest them and sharing this information with our marketing partners. Our marketing partners compensate us for connecting them with interested consumers.

To qualify to get access to the Job Listings, you'll need to enter a valid e-mail address as well as your name, address, and date of birth. We'll also ask a series of survey questions relating to the type of job you're looking for including your education and skills and may seek other information to help us narrow the Job Listings. We may also ask other questions and use all of this information to tailor the products and/or services our marketing partners may offer you. We will ask you to confirm that all of your information is accurate and agree to be contacted by our marketing partners, typically via email.



**No Representations or Warranties.** The Job Listings and other job or career related information and any offers for goods and services offered on a Site and any other content, information, documents, graphics and images displayed on a Site (collectively, “Site Content”) are provided by us and our marketing partners, employers, job listing aggregators and other third parties (“collectively, “Content Providers”) and could include inaccuracies, typographical errors or other errors. We make no commitment to update or correct any errors on a Site.

We do not verify the accuracy of the Job Listings or that any jobs that appear in the Job Listings are in fact currently available. We make no representations or warranties that you will get a job as a result of visiting a Site and applying to an opening contained in the Job Listings or that the Job Listings are current, accurate or reflect open positions. Moreover, we have not reviewed in any way any of the employers that have positions included in the Job Listings. When you apply for a job, you do so at your own risk.

You also understand and agree that a Site may, at times, be inaccessible or inoperable for any reason, including: (a) equipment or communications malfunctions; (b) periodic maintenance, repairs or administrative reviews which we may undertake from time-to-time; or (c) causes beyond our control or which are not foreseeable by us. We will not be responsible or liable in any way to you or anyone else due to or as a result of any such inaccessibility or inoperability.

OTHER THAN AS EXPRESSLY SET OUT IN THESE TERMS & CONDITIONS, NEITHER WE NOR ANY CONTENT PROVIDER MAKE ANY SPECIFIC PROMISES ABOUT THE SITES, THE JOB LISTINGS OR OTHER SITE CONTENT PROVIDED THEREIN. WE PROVIDE THE SITES, JOB LISTINGS, SITE CONTENT AND OTHER SERVICES ON AN “AS IS, AS AVAILABLE BASIS.” SOME JURISDICTIONS PROVIDE FOR CERTAIN WARRANTIES, SUCH AS THE IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. TO THE EXTENT PERMITTED BY LAW, WE EXCLUDE ALL WARRANTIES.

**Privacy Policy; Confidentiality.** Our Privacy Policy contains terms and conditions that govern our collection and use of the information you provide us or that we obtain through your use of a Site and our respective rights relative to that information. In general, we share information you provide us with our marketing partners. Please review our Privacy Policy before you use a Site. Your use of a Site indicates your agreement to our Privacy Policy.

As provided for in the Privacy Policy, we cannot guarantee your confidential use of a Site. We will not be responsible for any harm that you or any person may suffer as a result of a breach of confidentiality from your use of a Site.

**Telemarketing and Text Messages.** Where you provide “prior express written consent” within the meaning of the Telephone Consumer Protection Act (“TCPA”), you consent to receive telephone calls, including artificial voice calls, pre-recorded messages and/or calls delivered via automated technology and text and SMS messages to the telephone number(s) that you provided

from us and the marketing partners listed in and hyperlinked to the consent. You do not need to consent to be called or texted by the parties listed in the consent to get the Job Listings, to access Site Content or to purchase any of the goods or services offered on a Site. If you provide consent, CAC an affiliate of ours and any of our other affiliates or Marketing Partners named in the consent may send you SMS messages from their short codes or long codes. Our short codes are 53294, 91982, 27367, 68766 and 411411; we may acquire additional short codes. Message Frequency Varies. The mobile carriers are not liable for delayed or undelivered Messages.

Consumers may request up to a maximum of 10 offers on selected days of the week, with no more than 4 text messages in one day. Consumers may opt out of receiving text messages by sending or replying “STOP”, “END” or “QUIT” to any SMS message they receive. Consumers may also reply with “HELP” or click here for support. Message and Data Rates May Apply to any text/SMS communication.

We may also ask your consent to send “push notifications” to your mobile phone if your phone uses the Android operating system. Push notifications, which appears as short messages on your mobile phone’s home screen, may contain relevant job listings, sponsor offers and other content. The consent page will follow a page where we ask whether you’re interested in receiving job-related content to your mobile phone. The next page will ask for your consent to allow us to send you push notifications. We will send push notifications only if you consent.

**Eligibility.** The Sites are intended for use by United States residents who are over 13 years of age. We do not represent that all Site Content and other content, materials and services on our Sites are appropriate or available for use in geographic locations outside the United States, and accessing a Site from certain locations may be illegal and prohibited. You agree not to access a Site or any Site Content or other content, materials and services on the Sites where prohibited by law. We are not responsible for your compliance with local laws or other applicable laws.

**Equipment.** You are solely responsible for providing and maintaining all hardware, software, electrical and other physical requirements for your use of a Site, including telecommunications and internet access connections and links, web browsers or other equipment, compatibility, and all other programs or services required to access and use a Site.

**Proprietary Rights.** The Sites including the Job Listings and Site Content are made available for your personal, non-commercial use only and you agree not to copy, duplicate, display, transmit, distribute, modify, reverse engineer or prepare derivative works of all or any portion of a Site for any purpose. Portions of the Sites are proprietary to us and are protected by intellectual property laws and treaties, including copyright, trademark, service mark, trade secret and/or patent laws and we reserve all of our rights. Some of the services and content on the Sites are provided by third parties and is proprietary to these third parties.

The names of companies and products that we do not own and that are mentioned on the Sites may be the trademarks of their respective owners. The trademark owners do not sponsor the Sites and in most instances, do not endorse the Sites, the Site Content or any of the offers contained on the Sites. Any use of the protected services and/or content belonging to us or third parties without the express written permission of the owner thereof is strictly prohibited.

You may not use a Site to sell a product or service, or to increase traffic to your website for commercial reasons, such as advertising sales. You may not take the search results and reformat and display them, or mirror a Site home page or search results pages on your website.

**Site Links and Third-Party Sites.** The Sites contain Job Listings and other links to third party websites which are independent of the Sites. We make no representation or warranty as to the accuracy, value, integrity, completeness or authenticity of the information or opinions contained in the Job Listings or any other linked website. We do not endorse any job, employer or website contained within the Job Listings or any other linked website, or the products or services described therein and are not responsible for and disclaim all liability for these third party websites. You should review the terms and conditions and privacy policies applicable to these third party websites.

Furthermore, these links may lead to websites or links that contain offensive and objectionable content or which may contain dangerous computer viruses. You assume, and we hereby disclaim, all responsibility for any of the content on these websites or for any damage sustained by users of these websites.

**Fraudulent Activity Policy.** We strictly prohibit user fraud and abuse relating to access to and use of the Sites. In accessing a Site, or any other activities, products or services offered by or through a Site, you represent and warrant that: (a) all information you supply is complete and accurate, (b) you are not acting in violation of any applicable laws, rule or regulations or of these Terms & Conditions, and (c) you will not circumvent or attempt to circumvent any provision these Terms & Conditions or any security feature of a Site or engage in any activity that interrupts or attempts to interrupt a Site's operation. We may take action, including disabling a user's account, if we deem that a user is exhibiting unusual patterns of behavior and/or randomly and/or excessively clicking on a link or links after performing a search.

**Choice of Law.** You agree that these Terms & Conditions constitute the agreement between you and us and shall be construed and governed in accordance with the laws of the State of New York, regardless of the conflicts of law provisions of the jurisdiction where you live or in any other jurisdiction.

**Arbitration/Dispute Resolution.** You agree to arbitrate any and all claims arising out of or related to the Agreement. If you have a dispute concerning any aspect of the Agreement, including without limitation, your participation in a Promotion, entitlement to an Incentive or a telemarketing call or SMS/text message that you received from us or a Marketing Partner, you should first contact customer support on the Site or complete a customer support ticket. We will attempt to resolve the matter to your satisfaction within thirty (30) days of our receipt of a customer support ticket. We may choose to provide you with a final written settlement offer during this process. If we provide you with a final written settlement offer and you don't accept it, if we can't otherwise satisfactorily resolve your dispute, or if you choose to skip this step, you must submit your dispute for resolution by arbitration before the American Arbitration Association ("AAA") in the county where you live by filing a separate Demand for

An AAA arbitrator will have exclusive authority to resolve any dispute or claims that you may have with us—and our Marketing Partners who are third-party beneficiaries of the mandatory arbitration provision—arising out of or related to the Agreement. Matters subject to mandatory arbitration include, without limitation, whether this Arbitration/Dispute Resolution provision applies to your particular claim or dispute, and any claim that all or any part of the Agreement, including this provision, are/is unenforceable. If the claim is against us, you will need our mailing address to file online. To obtain our mailing address, contact us by clicking [here](#).

If we have a dispute, we will submit our dispute for resolution by arbitration before the AAA in New York, NY. If either party files for arbitration, it will be conducted in accordance with the then current AAA Commercial Arbitration Rules.

If you proceed to arbitration against us, you will pay all AAA filing fees and we will pay for all administration and arbitrator fees unless the arbitrator determines that your claim is frivolous or brought for an improper purpose (as measured by the standards set forth in Federal Rule of Civil Procedure 11(b)). For claims brought by you of Ten Thousand Dollars (\$10,000.00) or less, you can choose whether the arbitration proceeds in person, by telephone or based only on submissions. The arbitrator may award any form of individual or equitable relief, including injunctive relief. Any award will be final and conclusive to the parties and may be entered in any court of competent jurisdiction. If you initiate arbitration against us and the arbitrator awards you relief that is greater than our final written settlement offer made before an arbitrator was selected, then we will pay you a minimum recovery of Five Hundred Dollars (\$500.00), plus we will reimburse any reasonable expenses incurred by your attorney, if any, including fees reasonably accrued for investigating, preparing and pursuing the claim in arbitration. Although under some laws we may have a right to an award of attorneys' fees and expenses if we prevail in arbitration, we agree that we will not seek such an award from you. You and your attorneys are not required to keep the results of the arbitration confidential. You agree to the entry of injunctive relief to stop such a lawsuit or to remove you as a participant in such a suit.

**Class Action Waiver.** The arbitration provision contained in these Terms & Conditions does not constitute a waiver of any of your rights and remedies to pursue a claim individually and not as a class action in binding arbitration as provided above. This provision preventing you from bringing, joining or participating in class action lawsuits is an independent agreement.

**Exceptions to Mandatory Arbitration.** There are two narrow exceptions to mandatory arbitration. First, you may opt-out of the Arbitration/Dispute Resolution provision by providing written notice of your decision within thirty (30) days of the date that you first register on the Sites. To obtain our mailing address, contact us by clicking [here](#).

Second, you may choose to pursue your dispute or claim in Small Claims Court rather than by arbitration but only if your dispute or claim qualifies for Small Claims Court in a location where jurisdiction and venue over both you and Search Works Media, LLC is proper.

Other than these two exceptions, you must arbitrate any claims as provided above.

**YOU ACKNOWLEDGE AND AGREE THAT, VIA YOUR ACCEPTANCE OF THESE DISPUTE RESOLUTION PROVISIONS, YOU WAIVE ANY RIGHT TO A JURY TRIAL, AS WELL AS YOUR RIGHT TO BRING, JOIN OR PARTICIPATE AS A PLAINTIFF OR A CLASS MEMBER IN A CLASS ACTION SUIT OR MULTI-PARTY ARBITRATION BROUGHT AGAINST US, OUR MARKETING PARTNERS OR ANY SERVICE PROVIDER USED BY US TO PROVIDE THE SUBJECT SERVICE.**

**LIMITATION OF LIABILITY.** WHEN PERMITTED BY LAW, WE AND OUR MARKETING PARTNERS AND SERVICE PROVIDERS, WILL NOT BE RESPONSIBLE FOR LOST PROFITS, REVENUES, OR DATA, FINANCIAL LOSSES OR INDIRECT, SPECIAL, CONSEQUENTIAL, EXEMPLARY, OR PUNITIVE DAMAGES. TO THE EXTENT PERMITTED BY LAW, THE TOTAL LIABILITY OF US, AND OUR MARKETING PARTNERS AND SERVICE PROVIDERS, FOR ANY CLAIMS UNDER THESE TERMS & CONDITIONS, INCLUDING FOR ANY IMPLIED WARRANTIES, IS LIMITED TO THE AMOUNT YOU PAID US TO USE THE SITE, JOB LISTINGS AND THE SERVICES. IN ALL CASES, WE AND OUR MARKETING PARTNERS AND SERVICE PROVIDERS WILL NOT BE LIABLE FOR ANY LOSS OR DAMAGE THAT IS NOT REASONABLY FORESEEABLE.

**Indemnification.** You agree to indemnify, hold harmless and defend us, our shareholders, directors, employees and agents from and against any action, cause, claim, damage, debt, demand or liability, including reasonable costs and attorney's fees, asserted by any person or entity, arising out of or relating to: (a) these Terms & Conditions and/or any breach or alleged or threatened breach by you; (b) your use of the Site, Site Content, or any search results or other content or materials or services transmitted or received by you; (c) any unacceptable or objectionable use of the Site or Site Content by you; or (d) any negligent or willful misconduct by you.

**Integration and Conflicting Terms; Severability.** These Terms & Conditions and the Privacy Policy as referenced herein, constitute the complete and exclusive agreement between you and us with respect to use of the Site and supersedes any and all prior or contemporaneous communications, representations, statements, agreements and understandings, whether in oral, written or electronic form, between you and us concerning the use of the Site. These Terms & Conditions and the Privacy Policy shall be construed as consistent with each other whenever possible, but if such construction is unreasonable due to conflicting terms, the terms of the terms of the Privacy Policy shall control over the Terms & Conditions.

Any provision of these Terms & Conditions which is determined by a court of competent jurisdiction to be unenforceable in any jurisdiction shall be severable from these Terms & Conditions in that jurisdiction without in any way invalidating the remaining provisions of these Terms & Conditions. The unenforceability of any provision in a given jurisdiction shall not make that provision unenforceable in any other jurisdiction.